

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

GEOTAG, INC.,

v.

2:10-cv-265

FRONTIER COMMUNICATIONS CORP.,
et al.,

GEOTAG, INC.,

v.

2:10-cv-272

YELLOWPAGES.com LLC

GEOTAG, INC.,

v.

2:10-cv-569

GEORGIO ARMANI S.P.A., *et al.*,

GEOTAG, INC.,

v.

2:10-cv-570

AROMATIQUE, INC., *et al.*,

GEOTAG, INC.,

v.

2:10-cv-571

GUCCI AMERICA, INC., *et al.*,

GEOTAG, INC.,

v.

2:10-cv-572

STARBUCKS CORP., *et al.*,

GEOTAG, INC.,

v.

2:10-cv-573

RENT-A-CENTER, INC., *et al.*,

GEOTAG, INC.,

v.

2:10-cv-574

THE WESTERN UNION COMPANY, *et al.*,

GEOTAG, INC.,

v.

2:10-cv-575

ROYAL PURPLE, INC., *et al.*,

GEOTAG, INC.,

v.

2:10-cv-587

YAKIRA, L.L.C., *et al.*,

GEOTAG, INC.,

v.

2:11-cv-175

WHERE 2 GET IT, INC., *et al.*,

GEOTAG, INC.,

v.

2:11-cv-403

ZOOSK, INC.

GEOTAG, INC.,

v.

2:11-cv-404

**EYE CARE CENTERS OF AMERICA, INC.,
et al.,**

GEOTAG, INC.,

v.

2:11-cv-405

CIRCLE K STORES, INC., *et al.*,

GEOTAG, INC.,

v.

2:11-cv-421

AMERCO, *et al.*,

GEOTAG, INC.,

v.

2:11-cv-424

7-ELEVEN, INC., *et al.*,

GEOTAG, INC.,

v.

2:11-cv-425

SUNBELT RENTALS, INC.

GEOTAG, INC.,

v.

2:11-cv-426

CLASSIFIED VENTURES, LLC

GEOTAG, INC.,

v.

2:12-cv-43

CANON INC., et al.,

WHERE 2 GET IT, INC.,

v.

2:12-cv-149

GEOTAG, INC.

GEOTAG, INC.,

v.

2:12-cv-436

AMERICAN APPAREL INC.

GEOTAG, INC.,

v.

2:12-cv-437

ABERCROMBIE & FITCH CO.

GEOTAG, INC.,

v.

2:12-cv-438

AMERICAN EAGLE OUTFITTERS INC.

GEOTAG, INC.,

v.

2:12-cv-439

ANN INC.

GEOTAG, INC.,

v.

2:12-cv-440

NEW ASHLEY STEWART, INC.

GEOTAG, INC.,

v.

2:12-cv-441

BILLABONG RETAIL INC.

GEOTAG, INC.,

v.

2:12-cv-442

CATALOGUE VENTURES, INC.

GEOTAG, INC.,

v.

2:12-cv-443

BURBERRY LIMITED

GEOTAG, INC.,

v.

2:12-cv-444

**BURLINGTON FACTORY WAREHOUSE
CORPORATION**

GEOTAG, INC.,

v.

2:12-cv-445

CACHE INC.

GEOTAG, INC.,

v.

2:11-cv-446

THE WILLIAM CARTER COMPANY

GEOTAG, INC.,

v.

2:12-cv-447

CHARMING SHOPPES INC.

GEOTAG, INC.,

v.

2:12-cv-448

CHICO'S FAS INC.

GEOTAG, INC.,

v.

2:12-cv-449

CITI TRENDS INC.

GEOTAG, INC.,

v.

2:12-cv-450

CLAIRE'S BOUTIQUES, INC.

GEOTAG, INC.,

v.

2:12-cv-451

COLDWATER CREEK INC.

GEOTAG, INC.,

v.

2:12-cv-452

DAVID'S BRIDAL INC.

GEOTAG, INC.,

v.

2:12-cv-453

DEB SHOPS INC.

GEOTAG, INC.,

v.

2:11-cv-454

DELIAS INC.

GEOTAG, INC.,

v.

2:12-cv-455

DESTINATION MATERNITY CORPORATION

GEOTAG, INC.,

v.

2:12-cv-456

DIESEL U.S.A. INC.

GEOTAG, INC.,

v.

2:12-cv-457

DONNA KARAN INTERNATIONAL INC.

GEOTAG, INC.,

v.

2:12-cv-458

**LVMH MOET HENNESSY LOUIS VUITTON
INC.**

GEOTAG, INC.,

v.

2:12-cv-459

DOTS, LLC

GEOTAG, INC.,

v.

2:12-cv-460

DRAPER'S & DAMON'S INC.

GEOTAG, INC.,

v.

2:12-cv-461

EDDIE BAUER LLC

GEOTAG, INC.,

v.

2:12-cv-462

ESPRIT US RETAIL LIMITED

GEOTAG, INC.,

v.

2:11-cv-463

FACTORY CONNECTION LLC

GEOTAG, INC.,	
v.	2:11-cv-464
THE FINISH LINE INC.	
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GEOTAG, INC.,	
v.	2:12-cv-465
FOREVER 21 RETAIL INC.	
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GEOTAG, INC.,	
v.	2:12-cv-466
FORMAL SPECIALISTS LTD.	
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GEOTAG, INC.,	
v.	2:12-cv-467
FREDERICK'S OF HOLLYWOOD STORES INC.	
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GEOTAG, INC.,	
v.	2:12-cv-468
GROUPE DYNAMITE, INC. D/B/A GARAGE	
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GEOTAG, INC.,	
v.	2:12-cv-469
GUESS? RETAIL INC.	
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GEOTAG, INC.,

v.

2:12-cv-470

H&M HENNES & MAURITZ LP

GEOTAG, INC.,

v.

2:12-cv-471

HANESBRANDS INC.

GEOTAG, INC.,

v.

2:12-cv-472

HOT TOPIC INC.

GEOTAG, INC.,

v.

2:12-cv-473

HUGO BOSS FASHION INC.

GEOTAG, INC.,

v.

2:12-cv-474

J. CREW GROUP INC.

GEOTAG, INC.,

v.

2:12-cv-475

JIMMY JAZZ INC.

GEOTAG, INC.,

v.

2:12-cv-476

JOS. A. BANK CLOTHIERS INC.

GEOTAG, INC.,

v.

2:12-cv-477

ALCO STORES INC.

GEOTAG, INC.,

v.

2:12-cv-478

FRED'S INC.

GEOTAG, INC.,

v.

2:12-cv-479

BAKERS FOOTWEAR GROUP

GEOTAG, INC.,

v.

2:11-cv-480

BROWN SHOE COMPANY INC.

GEOTAG, INC.,

v.

2:12-cv-481

COLLECTIVE BRANDS INC.

GEOTAG, INC.,

v.

2:12-cv-482

CROCS INC.

GEOTAG, INC.,

v.

2:12-cv-483

DSW INC. D/B/A DSW SHOE INC.

GEOTAG, INC.,

v.

2:12-cv-484

FLEET FEET INC.

GEOTAG, INC.,

v.

2:12-cv-485

FOOT SOLUTIONS INC.

GEOTAG, INC.,

v.

2:12-cv-486

GENESCO INC.

GEOTAG, INC.,

v.

2:12-cv-487

HEELY'S INC.

GEOTAG, INC.,

v.

2:12-cv-488

JUSTIN BOOT COMPANY

GEOTAG, INC.,

v.

2:12-cv-520

AMERICAN GREETINGS CORPORATION

GEOTAG, INC.,

v.

2:12-cv-521

HALLMARK CARDS, INC.

GEOTAG, INC.,

v.

2:12-cv-522

HICKORY FARMS INC.

GEOTAG, INC.,

v.

2:12-cv-523

SPENCER GIFTS LLC

GEOTAG, INC.,

v.

2:11-cv-524

INTERNATIONAL COFFEE & TEA, LLC

GEOTAG, INC.,

v.

2:11-cv-525

THINGS REMEMBERED, INC.

GEOTAG, INC.,

v.

2:12-cv-526

THE YANKEE CANDLE COMPANY, INC.

GEOTAG, INC.,

v.

2:12-cv-527

BOSE CORPORATION

GEOTAG, INC.,

v.

2:12-cv-528

GUITAR CENTER INC.

GEOTAG, INC.,

v.

2:12-cv-529

PROGRESSIVE CONCEPTS INC.

GEOTAG, INC.,

v.

2:12-cv-530

24 HOUR FITNESS WORLDWIDE INC.

GEOTAG, INC.,

v.

2:12-cv-531

BALLY TOTAL FITNESS CORPORATION

GEOTAG, INC.,

v.

2:12-cv-532

BARE ESCENTIALS INC.

GEOTAG, INC.,

v.

2:12-cv-533

BIOSCRIP INC.

GEOTAG, INC.,

v.

2:12-cv-534

CRABTREE & EVELYN

GEOTAG, INC.,

v.

2:12-cv-535

CURVES INTERNATIONAL INC.

GEOTAG, INC.,

v.

2:12-cv-536

GOLD'S GYM INTERNATIONAL INC.

GEOTAG, INC.,

v.

2:12-cv-537

GREAT CLIPS INC.

GEOTAG, INC.,

v.

2:12-cv-538

L.A. FITNESS INTERNATIONAL INC.

GEOTAG, INC.,

v.

2:12-cv-539

LIFE TIME FITNESS INC.

GEOTAG, INC.,

v.

2:12-cv-540

M.A.C. COSMETICS INC.

GEOTAG, INC.,

v.

2:11-cv-541

MERLE NORMAN COSMETICS

GEOTAG, INC.,

v.

2:12-cv-542

**VITAMIN COTTAGE NATURAL FOOD
MARKETS, INC.**

GEOTAG, INC.,

v.

2:12-cv-543

REGIS CORPORATION

GEOTAG, INC.,

v.

2:12-cv-544

SALLY BEAUTY SUPPLY LLC

GEOTAG, INC.,

v.

2:12-cv-545

SEPHORA USA INC.

GEOTAG, INC.,

v.

2:12-cv-546

TONI&GUY USA, LLC

GEOTAG, INC.,

v.

2:12-cv-547

**ULTA SALON, COSMETICS & FRAGRANCE,
INC.**

GEOTAG, INC.,

v.

2:12-cv-548

VITAMIN SHOPPE INDUSTRIES, INC.

GEOTAG, INC.,

v.

2:12-cv-549

EYEMART EXPRESS, LTD.

GEOTAG, INC.,

v.

2:11-cv-550

LUXOTTICA RETAIL NORTH AMERICA INC.

GEOTAG, INC.,

v.

2:12-cv-551

NATIONAL VISION INC.

GEOTAG, INC.,

v.

2:12-cv-552

U.S. VISION INC.

GEOTAG, INC.,

v.

2:12-cv-553

WILD BIRDS UNLIMITED INC.

GEOTAG, INC.,

v.

2:12-cv-554

JOS. A. BANK CLOTHIERS INC.

GEOTAG, INC.,

v.

2:12-cv-555

BUTH-NA-BODHAIGE INC.

GEOTAG, INC.,

v.

2:12-cv-556

PSP GROUP, LLC

GEOTAG, INC.,

v.

2:12-cv-557

RITZ INTERACTIVE LLC

**DEFENDANTS' RESPONSE TO PLAINTIFF'S
MOTION FOR EXTENSION OF TIME**

The under-signed Defendants respectfully oppose GeoTag's Motion for Extension of Time to Secure New Counsel. (*See, e.g.*, Case No. 2:10-cv-570, Dkt. No. 510 ("Motion")). GeoTag's Motion demonstrates that it has not complied and will likely not comply with this Court's recent Order. Accordingly, Defendants respectfully request that the Court enforce its Order and dismiss these cases absent the appearance by September 13th of counsel fully able to prosecute these cases.

In the Court's August 30, 2012 Order Denying Motions to Withdraw As Counsel, the Court stated that it would "not grant withdrawal without substitute counsel capable of prosecuting Plaintiff's claims within the scheduled time frame." (*See, e.g.*, Case No. 2:10-cv-570, Dkt. No. 505 ("Order") at 15 (emphasis added)). By filing the present Motion for more

time to find counsel able to prosecute its claims, and by making clear that it has only retained “local counsel,” GeoTag admits that it is not in compliance with the Court’s Order.¹

Moreover, the reasons stated in support of GeoTag’s Motion do not provide any legitimate basis for failing to comply with the Court’s Order and do not demonstrate good cause for the requested extension. For instance, the “size, scope and complexity” of the litigation are not recent events that legitimately impeded GeoTag’s search for substitute counsel. GeoTag has had numerous law firms previously involved in this dispute, but has relieved all of them of their duties.² Indeed, last August when these cases already had several hundred defendants, GeoTag had its then-counsel withdraw and substituted in the two firms that now presently seek to

¹ During a telephonic meet-and-confer held on September 10, 2012, Mr. Andrew Spangler—who has entered an appearance as local counsel on behalf of GeoTag—indicated to Defendants that he had not been retained for the purpose of prosecuting GeoTag’s claims. Moreover, Mr. Spangler’s recent Notice of Appearance filed with this Court confirms that he has been retained only “as local counsel.” (*See, e.g.*, Case No. 2:10-cv-570, Dkt. No. 509).

In addition, the Motion confirms that GeoTag retained Mr. Spangler to only “act as local counsel” while GeoTag requests “an additional 14 days to assemble its full team of lead counsel” who would ostensibly be tasked with prosecuting this case within the scheduled time frame. (Motion at 28). Indeed, GeoTag’s Proposed Order requests an extension of time “to retain new counsel capable of prosecuting Plaintiff’s claims.” (Motion at Proposed Order).

² For instance, as indicated by the docket sheet, the following firms have entered appearances on behalf of GeoTag and been subsequently terminated in *GeoTag Inc. v. Yellowpages.com LLC*, Case No. 2:10-cv-272 (the following list does not include all firms that have entered appearances and been subsequently terminated in other GeoTag cases):

- Friedman Suder & Cooke – Terminated November 8, 2010;
- Knisely, Prehoditch & Panzer, PC – Terminated November 8, 2010;
- Collins Edmonds & Pogorzelski, PLLC – Terminated August 5, 2011;
- Charles van Cleef, Attorney at Law, PC – Terminated August 5, 2011;
- Ireland Carroll & Kelley – Terminated August 10, 2011;
- Buether Joe & Carpenter, LLC – Seeking Withdrawal as of August 29, 2012; and
- The Ni Law Firm PLLC – Seeking Withdrawal as of August 29, 2012.

withdraw.³ GeoTag was aware of the complexities associated with finding and retaining suitable counsel at least as of that time. Further, any issues of scope and complexity are the result of GeoTag's strategic decision to simultaneously sue hundreds of parties. GeoTag should not be permitted to fail to comply with Court Orders and continue to delay the prosecution of these cases based on an alleged "complexity" hardship that GeoTag itself has caused. *See Finisar Corp. v. DirecTV Group, Inc.*, 424 F. Supp. 2d 896, 900 (E.D. Tex. 2006) (request for delay of deadline denied because reason for delay was "fully in control of" movant).

Therefore, it is clear that GeoTag has not yet retained substitute counsel fully able to prosecute its claims as required by the Court's Order. Accordingly, the under-signed Defendants respectfully request that the Court deny GeoTag's Motion for Extension of Time to Secure New Counsel, and, unless GeoTag fully complies with the Court's Order by September 13, 2012, that the above-captioned cases be dismissed.

³ See, e.g., Case No. 2:10-cv-570, Dkt. No. 294 (requesting substitution of the Ni Law Firm, PLLC for Collins, Edmonds & Pogorzelski, PLLC and Cooper & Van Cleef, PLLC), and Case No. 2:10-cv-571, Dkt. No. 253 (requesting substitution of Buether Joe & Carpenter, LLC for Collins, Edmonds & Pogorzelski, PLLC and Cooper & Van Cleef, PLLC).

Dated: September 11, 2012

Respectfully submitted,

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CORP.; CVS PHARMACY, INC.; CUMMINS,
INC.; DEERE & CO.; RITE AID CORP.; A&W
RESTAURANTS, INC.; KFC CORP.; LONG
JOHN SILVER'S, INC.; PIZZA HUT, INC.;
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CORPORATION, INC.; SPATIALPOINT LLC;
WAL-MART STORES, INC.; COLDWATER
CREEK, INC; SALLY BEAUTY SUPPLY,
LLC; L.A. FITNESS INTERNATIONAL, LLC;
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